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To: USPTO
Exr. K. J. Mahaffey
Art Unit 1761

Date: 12/17/05

From: Werner H. Schroeder
Patent Agent
Reg. No. 36,387

Number of pages including cover sheet: 13

Comments: Response to first Office Action

Werner H. Schroeder
Signature

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Application Number	10/667,809
Filing Date	09/22/2003
First Named Inventor	Thomas F. Adams
Art Unit	1701
Examiner Name	Kelly Jo. McHeskey
Attorney Docket Number	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavit(s)/Declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
Response to first Office Action Rejection Attachments: Amended paragraphs in specification		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	Warner H. Schroeder		
Date	12/17/05	Reg. No.	38,387

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Warner H. Schroeder	Date	12/17/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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This is a response to a first Office Action**Application SN. 10/687,809**

This communication is a response to a first Office Action rejection having a mailing date of 10/06/2005 and setting forth a shortened statutory period for response of three months which would expire on 01/06/2006.

The applicant has studied the examiner's DETAILED ACTION carefully with the following results:

1. The examiner's definition of a substitute application is correct and the observations thereof are agreed with.

1 - 8 The results of the of the Election/Restrictions are accepted.

9 and 10a through 10i 11, and 12.

The drawing objections have been studied carefully and it is found that the drawings are correct but that the specification and the call-out numerals need to be corrected which is being done on separate pages.

13 - 15. Claim rejections under 35 U.S.C. 102.

Claims 12- 15, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Zonca. The Zonca reference teaches the use of a single compartment 10 that includes the claimed dimensions. However, applicant clearly claims a plurality of lateral compartments having overflow channels formed between the compartments that provide a path for self-levelling water between adjacent lateral compartments. None of this shown and taught by Zonca. The protrusion 20 in the single compartment does not qualify as a partition between compartments. The protrusion merely puts a dip in the ice cube the ease in breaking an ice cube into several sections. Therefore, claims 12- 15, 19 and 20 are not anticipated by Zonca and the rejection must be withdrawn. The rejection of claims 19 and 20 is not understood because claim 19 is dependent from claim 18 and claim 18 is not included in the above noted rejection.

16 - 21 rejections under 35 U.S.C 103

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zonca as applied to claims 12 - 15, 19 and 20 and in view of Copeman. It has been established above that the Zonca reference does not qualify as a base reference. However, when studying the Copeman reference, it is clear that Copeman has an entirely different concept in ejecting ice cubes from a tray down into a chute. Applicant claims " a chute means integrally formed of said tray at an orientation parallel to said length of said lateral compartment". Copeman does not have such a chute means but turns the ice tray up-side-down and the ice cube is ejected by a spring 45. Therefore, even if Zonca was a valid reference, it could not be modified by Copeman and as suggested by the examiner.

22 - 26 rejections under 35 U.S.C 103

Claim 17 is rejected under 35 U.S.C 103(a) as being unpatentable over Zonca in view of Asenbauer. The Asenbauer reference is a stackable container and has nothing to do with ice trays. The examiner states that" Asenbauer discloses a tray with a rim portion that has a first raised height in the rear portion, which extends higher than the first raised height". It would have been helpful if the examiner had identified the different heights by reference characters. Applicant cannot find any such difference in the drawings as well as in the specification. Nevertheless, since Zonca is not a valid base reference, it cannot be modified as suggested by the examiner.

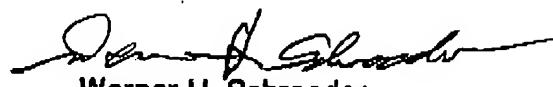
26 - 29 rejections under 35 U.S.C. 103

Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zonca as applied to claims 12 - 15, 19 and 20 above, and further in view of Fan. This rejection is not understood because claim 18 is an independent claim and then why the reference back to claims 12- 15, 19 and 20. However, the examiner states that "Fan disclose of an ice tray with compartments that are aligned vertically and have an increasing girth." Fan, being a Design Patent, does not have any explanation at all

and, therefore, the examiner's cited language cannot be found in Fan and not in the drawings. Therefore, this rejection cannot be maintained.

In view of all of the above, it is believed that all objections and rejections have been addressed and the examiner is respectfully requested to withdraw the objections and rejections made and pass this application to an early indication of allowability.

If any outstanding issues remain, the examiner is respectfully requested to call the undersigned at (239) 592-5843


Werner H. Schroeder

Reg. No. 38,387

Date: 12/17/05